

**Title 13A**  
**STATE BOARD OF EDUCATION**  
**Subtitle 14 CHILD AND FAMILY DAY CARE**  
**Chapter 06 Child Care Subsidy Program**

Authority: Education Article, §2-303 and Title 9.5, Annotated Code of Maryland  
Agency Note: Federal Regulatory Reference — Child Care and Development Fund 45 CFR 98.50

**.01 Purpose.**

The purpose of the Child Care Subsidy Program is to provide financial assistance with child care costs to families that meet applicable State or federal eligibility requirements.

**.02 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Absence" means the failure of a child to attend or appear at the child care program.

(2) "Administrative disqualification hearing" means a hearing held by an administrative law judge of the Office of Administrative Hearings to determine if an intentional program violation (IPV) has occurred for which disqualification is a sanction.

(3) "Administrative law judge" means an administrative law judge of the Office of Administrative Hearings.

(4) "Adult" means an individual who is 18 years old or older.

(5) "Adverse action" means the denial, termination, suspension, or reduction of:

(a) Services to a customer; or

(b) Payment to a provider.

(6) "Appellant" means a customer, recipient, or other individual who is:

(a) Authorized by regulation to request an appeal under this chapter; or

(b) The subject of an intentional program violation proceeding.

(7) "Approved activity" means a pursuit in which a customer is participating that is approved by the CCS Program for a TCA family, or by an individual who is:

(a) Enrolled in public school;

(b) Enrolled in training;

(c) Engaged in volunteer work;

(d) Participating in a job search activity;

(e) Working; or

(f) Performing community service.

(8) "Babysitting" means care that is provided in the babysitter's home for unrelated children for less than 20 hours a month, for which State law exempts the babysitter from being licensed.

(9) "Birth certificate" means an official record, issued by an authorized governmental unit, of an individual's full name, gender, parentage, and date, place, and time of birth.

(10) "Case management" means the process of determining or redetermining eligibility for customers, including collecting verifications.

(11) "Child" means an individual who is younger than 13 years old who is not disabled, or an individual younger than 19 years old who is disabled.

(12) "Child care" means care in a setting that is approved, licensed, or license-exempt under Maryland law by an individual other than the parent, stepparent, guardian, or caretaker for less than a 24-hour day and for which compensation is paid.

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- (13) "Child care center" means a facility providing child care that is:
- (a) Licensed pursuant to COMAR 13A.16;
  - (b) Operated under a letter of compliance issued pursuant to COMAR 13A.17;
  - (c) Licensed by any branch of the military under applicable military child care regulations;
  - (d) Operated by a public school; or
  - (e) Licensed by the Maryland Department of Health as a youth camp as defined by Health-General Article, §14-401, Annotated Code of Maryland.
- (14) "Child Care Subsidy (CCS) Program" means the system of providing financial assistance for child care to an eligible family, under which the contractor pays to the provider all or part of the payment on behalf of the family.
- (15) "Child Care Subsidy (CCS) Branch" means the unit within the Division that regulates and administers Maryland's CCS voucher system for eligible families.
- (16) "Child with a disability" means a child who has been diagnosed as being physically or mentally incapable of self-care appropriate to the age of the child, as verified by the State, based on a determination by a physician, a licensed or certified psychologist, or a licensed social worker.
- (17) "Contractor" means the entity designated by the Division to:
- (a) Take applications for CCS Program services;
  - (b) Issue child care subsidy vouchers to eligible customers;
  - (c) Process payments to child care providers and handle tasks related to provider payment processing; and
  - (d) Handle all aspects of case management, including hearings and appeals, consumer education, and overpayments.
- (18) "Copayment" means that portion of the financial cost of child care services assigned by the contractor to a family and paid on a unit basis by the family to the provider.
- (19) "Customer" means an individual or family that:
- (a) Applies for initial or continuing CCS Program services; or
  - (b) Currently receives CCS Program services.
- (20) "Division" means the Division of Early Childhood Development, which is housed within the Maryland State Department of Education.
- (21) "Enrollment status" means the attendance schedule, either full-time or part-time, of the child receiving CCS services.
- (22) Family.
- (a) "Family" means the family unit consisting of:
- (i) One or more adults and children, related by blood, marriage, adoption, or legal guardianship, and residing in the same household; or
  - (ii) Adults with physical custody of a child, related or unrelated, who are residing in the same household.
- (b) "Family" includes unrelated adults with children in common who reside together, whether either has other children residing in the household.
- (c) "Family" does not include:
- (i) Unrelated adults with no children in common residing together; or
  - (ii) Related adults, other than spouses, residing together.
- (23) Family Child Care Home.
- (a) "Family child care home" means a residence, other than the home of the child for whom CCS is requested, in which family child care is provided.

(b) "Family child care home" includes a:

(i) Family child care home registered to operate pursuant to COMAR 13A.15 or applicable military child care regulations; or

(ii) Large family child care home registered to operate pursuant to COMAR 13A.18.

(24) "Family Investment Program (FIP)" means an assistance program of the Maryland Department of Human Services for families with children encompassing services, work experience, or temporary cash assistance (TCA).

(25) "Family Investment Program (FIP) participant" means an individual who is enrolled in TCA.

(26) "Family size" means the number of individuals residing in the same household as a family as defined in §B(21) of this regulation.

(27) "Good cause" means circumstances in which the customer's cooperation with the child support requirement may not be in the best interest of the child.

(28) Gross Income.

(a) "Gross income" means the sum of earnings, prior to adjustments such as, but not limited to, pretax benefits and rental property depreciation, that are received by an individual for compensation of services rendered on a regular or recurrent basis.

(b) "Gross income" includes, but is not limited to:

(i) Wages, salary, and, as specified at Regulation .03F(8)(a) of this chapter, income from self-employment;

(ii) Commissions, tips, and bonuses;

(iii) Dividends and interest;

(iv) Social Security benefits, including disability and survivors benefits;

(v) Pensions and annuities;

(vi) Estate income;

(vii) Military entitlements, bonuses, and allowances;

(viii) Rental income;

(ix) Unemployment and Workers' Compensation; and

(x) Alimony and child support.

(c) "Gross income" does not include:

(i) Temporary Cash Assistance payments;

(ii) Supplemental Security Income payments;

(iii) \$5,000 of a family's annual gross income per child for an adult with physical custody of a child as defined at §B(40) of this regulation;

(iv) \$5,000 of a family's annual gross income per child when the minor parent attends public school full-time;

(v) Money received from sales of property, such as stocks, bonds, a house, or a car, unless the individual was engaged in the business of selling the property, in which case the net proceeds would be counted as income from self-employment;

(vi) Withdrawals of bank deposits;

(vii) Money borrowed;

(viii) Tax refunds;

(ix) Gifts;

(x) Lump sum inheritances or insurance payments;

(xi) Subsidized adoption, subsidized guardianship, and foster care payments;

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(xii) Value of food stamps or supplemental assistance under the Child Nutrition Act of 1966 and the special food service program for children under the National School Lunch Act as amended;

(xiii) Earnings of a child younger than 15 years old or a child younger than 18 years old who is attending a public school;

(xiv) Loans and grants, such as scholarships, obtained and used under conditions that preclude their use for current living costs;

(xv) A grant or loan to an undergraduate student for educational purposes made or insured under a program administered by the Commissioner of Education under the Higher Education Act;

(xvi) Any stipends, compensation, or expenses received for volunteer service from programs existing or pending under the Domestic Volunteer Service Act of 1973 sponsored by ACTION;

(xvii) Any payment received under the Community Service Trust Act of 1973;

(xviii) Earnings received by a youth in a program under the Workforce Investment Act;

(xix) Energy grants and allowances received from P.L. 96-126 through the Maryland Energy Assistance Program;

(xx) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(xxi) Child support payments made by a noncustodial parent for a child not residing in the customer's household;

(xxii) \$2,500 of child support state and federal tax intercepts and arrearage payments;

(xxiii) Veterans Administration payments to children with birth defects born to female Vietnam veterans;

(xxiv) Educational assistance income used for an educational activity that is approved by the Maryland Higher Education Commission or is part of the FIP Independence Plan;

(xxv) Payments made to correct underpayments to recipients; and

(xxvi) Census earnings made by temporary census workers.

(29) "Identified as responsible for child abuse or neglect" means being determined by a local department of social services to be responsible for indicated child abuse or neglect, under circumstances specified in the Family Law Article, §5-714, Annotated Code of Maryland, or awaiting the local department's appeal hearing after the determination.

(30) "Infant" means a child younger than 24 months old.

(31) "Informal child care" means child care that:

(a) Does not require the child care provider to be licensed or regulated under Maryland law; and

(b) Is limited to:

(i) Relative care;

(ii) In-home care; and

(iii) Babysitting.

(32) "In-home care" means care:

(a) Provided to the customer's children in the customer's home by a nonrelative; and

(b) Exempt from licensing if all children being cared for live in the residence in which care is provided.

(33) "Intentional program violation" means an intentional false or misleading statement or misrepresentation, concealment, or withholding of facts for the purposes of establishing or maintaining the customer's, recipient's, or provider's eligibility for CCS payments or for increasing or preventing a reduction of the amount of assistance.

(34) "Local jurisdiction" means:

(a) One of Maryland's 23 counties; or

(b) Baltimore City.

(35) "Maryland EXCELS" means the State's tiered quality rating and improvement system for early care and education programs.

(36) "MSDE" means the Maryland State Department of Education.

(37) "Non-traditional hours" means:

- (a) One hour or more between 7:00 p.m. and 6:00 a.m., Monday through Friday; or
- (b) Any period of one hour or more on a Saturday or a Sunday.

(38) "Office of Administrative Hearings (OAH)" means the administrative unit of Maryland government which is responsible for processing requests for hearings, for scheduling and conducting hearings, and for rendering decisions pursuant to State Government Article, §9-1601 et seq., Annotated Code of Maryland.

(39) "Overpayment" means the amount of payment received by a recipient or service provider to which the recipient or service provider was not entitled as determined by applicable CCS regulations.

(40) "Parent" means the biological or adoptive parent or the legal guardian or custodian of a child, who applies for the child to receive CCS Program services.

(41) "Physical custody of a child" means custody of a minor child by an adult other than the child's parent in whose household the child resides, as evidenced by:

- (a) A court order;
- (b) Written authorization from a parent, if the parent is not residing in the same household; or
- (c) Other documentation acceptable to the contractor.

(42) "Program freeze" means that the list of available providers has been exhausted or there are insufficient funds to provide a child care subsidy to all eligible families.

(43) "Provider" means:

- (a) A family child care home;
- (b) A child care center; or
- (c) An individual approved by the CCS Branch to provide informal child care.

(44) "Public assistance" means Supplemental Security Income (SSI) received pursuant to Title XVI of the Social Security Act or cash benefits received through any program administered by the Family Investment Administration or successor administration.

(45) "Qualified alien" means a citizen of a foreign country who does not hold dual U.S. citizenship, is not a naturalized U.S. citizen, and:

- (a) Has been lawfully admitted for permanent residence in the U.S.;
- (b) Has been granted asylum in the U.S.;
- (c) Is a refugee in the U.S.;
- (d) Has been granted conditional entry into the U.S.;
- (e) Has been temporarily paroled into the U.S. for limited reasons;
- (f) Is under a suspended deportation order from the U.S.; or
- (g) Has been battered or subjected to extreme cruelty by a parent or family member in the U.S. and who has:
  - (i) Been approved, or has petitioned, for status as a child of a U.S. citizen;
  - (ii) Been classified as the child of a lawfully admitted alien; or
  - (iii) Had a deportation order suspended with an adjustment of status.

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(46) "Reasonable accommodation" means a modification made by a child care service provider, at no additional cost to the parent, in order to meet the physical, social, mental, and emotional needs of a child with a disability in accordance with Title III of the Americans with Disabilities Act.

(47) "Recipient" means an individual who receives or has received assistance or that individual's authorized representative.

(48) "Relative care" means care that:

(a) Is provided in the relative's or customer's home by a relative;

(b) Is exempt from licensing under Family Law Article, §§5-550—5-557, Annotated Code of Maryland; and

(c) Excludes as eligible for payment the parents, stepparents, legal guardians, or members of the TCA or CCS assistance unit.

(49) "Resident" means an individual who lives in Maryland and has no intention of leaving during the time in which CCS is to be provided.

(50) "Self-employment" means generating one's income directly from customers, clients, or other organizations as opposed to being an employee of a business or another individual.

(51) "Service period" means the 2-week period for which child care providers can provide service and receive payment.

(52) "Subsidy" means that portion of the financial cost of child care services paid in authorized unit rates by the contractor to providers.

(53) "Successfully passed" means, when used in connection with:

(a) A criminal background check, that an individual:

(i) Has not received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime listed at Regulation .06D(6)(b)(i)—(xi) of this chapter; or

(ii) If having received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime not listed at Regulation .06D(6)(b)(i)—(xi) of this chapter, has been assessed by the contractor as suitable to serve as an informal child care provider; or

(b) A review of records of abuse and neglect of children or adults, that an individual has been assessed by the contractor as being suitable to serve as an informal child care provider.

(54) "Temporary Cash Assistance (TCA)" means a form of cash assistance provided to families who are technically and financially eligible.

(55) "Tiered reimbursement" means weekly payments that:

(a) Exceed the payment rates specified in Regulation .11B—D of this chapter;

(b) Are paid to a child care center or a family child care provider that is participating in Maryland EXCELS at certain quality rating levels; and

(c) Vary based on the payment rate for the age of the child and the type of child care.

(56) Training.

(a) "Training" means any type of instructional program, except for post-college graduate programs, that is approved by the Division.

(b) "Training" includes an accredited undergraduate college, an accredited vocational program, or a publicly funded training program.

(57) "Transitioning off of public assistance" means the immediate 12-month period following the loss of a customer's eligibility for FIP assistance.

(58) "Underpayment" means a payment received by a provider that is less than the allowable amount owed the provider as determined by this chapter.

(59) "Unit" means the length of time per day a child is in child care, as follows:

(a) "One unit" means 3 hours or less per day;

- (b) "Two units" means more than 3 hours per day, but less than 6 hours per day; or
- (c) "Three units" means 6 hours or more per day.

(60) "Voluntary closure" means the period of time a child care provider is closed that:

- (a) Includes not more than 2 consecutive weeks annually; and
- (b) For child care centers and family child care homes, excludes:
  - (i) Christmas Day;
  - (ii) New Year's Day;
  - (iii) Memorial Day;
  - (iv) Independence Day;
  - (v) Labor Day; and
  - (vi) Thanksgiving Day.

(61) "Voucher" means a certificate given to a customer by the contractor for use in purchasing child care from a provider.

(62) "Waiver" means the document signed by an individual intentionally relinquishing the right to an administrative disqualification hearing.

### **.03 Eligibility.**

A. To be eligible for the CCS Program, a customer shall:

- (1) Be a resident of the State of Maryland;
- (2) Meet the need requirement set forth at §E of this regulation; and
- (3) Meet the income requirement set forth at §F of this regulation of this chapter.

B. Citizenship Status. To receive CCS Program services, a child shall be a:

- (1) United States (U.S.) citizen; or
- (2) Qualified alien, as defined in Regulation .02B(44) of this chapter.

C. Proof of Identity.

(1) At the time of initial application for CCS Program services, a customer shall submit to the contractor acceptable proof of identity for each family member;

(2) Acceptable proof of identity is limited to:

- (a) A valid U.S. passport;
- (b) A birth certificate;
- (c) Documentation of birth abroad issued by the U.S. Department of State;
- (d) Documentation issued by an agency of the U.S. government that certifies the applicant as:
  - (i) A naturalized U.S. citizen;
  - (ii) A permanent resident alien;
  - (iii) The holder of a current non-immigrant work visa;

(e) A valid, unexpired foreign passport with a current U.S. visa affixed and accompanied by documentation of the applicant's most recent entry into the U.S.;

(f) Any other document designated by an agency of the U.S. government, and established by notice in the Federal Register, as acceptable for certifying proof of identity;

- (g) A valid driver's license, issued by Maryland or by another state; or
- (h) A Maryland State Motor Vehicle Administration photo identification card.

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(3) Services shall be denied for a child for whom care is requested if acceptable proof of identity for that child is not provided.

(4) Proof of identity shall be maintained by the contractor in the customer's CCS Program case record.

D. Child Immunizations.

(1) Before a child may begin receiving CCS Program services, the:

(a) Child shall have had immunizations appropriate for the child's age that meet the immunization guidelines set by the Maryland Department of Health (MDH); and

(b) Child's immunization status shall have been documented on an immunization certificate form provided by MDH.

(2) Exemption from Immunization.

(a) Section §D(1) of this regulation does not apply if a child's:

(i) Documented medical condition contraindicates immunization; or

(ii) Parent objects to the immunization on religious grounds.

(b) If the child's parent objects to a child's immunization or medical examination, or both, on religious grounds, the contractor shall require the parent to:

(i) Provide a written health history of the child; and

(ii) Sign a statement indicating that to the best of the person's knowledge and belief, the child is in satisfactory health and free from any communicable disease.

(3) The immunization requirement is met when the customer submits to the contractor a written declaration, on a form supplied or approved by the CCS Branch, affirming that the child attends a:

(a) Registered family child care home, licensed child care center, letter of compliance facility, or large family child care home where the child's immunization records are maintained in accordance with applicable COMAR requirements; or

(b) Full-day program at a public or nonpublic school where the child's immunization records are maintained.

E. Need. The need requirement is met:

(1) When the child's parent, caretaker, or legal guardian is not available or capable to care for the child, no other acceptable child care plan can be arranged, and one or more of the priority situations exist according to Regulation .08A of this chapter;

(2) By a customer who meets the requirements specified in Regulation .08A(1) of this chapter:

(a) During approved activity periods;

(b) Before beginning an approved activity for a period not to exceed 1 month;

(c) During gaps in approved activities for a period not to exceed 1 month; or

(d) As necessary to accept employment or to remain employed and if the child care would otherwise be lost; or

(3) By a customer who meets the requirements specified in Regulation .08A(2) and (3) of this chapter:

(a) While employed; and

(b) During gaps in employment for a period not to exceed 1 month and if the child care would otherwise be lost, to:

(i) Seek employment;

(ii) Accept employment; or

(iii) Remain employed.

F. Income.

(1) An applicant shall meet the income eligibility requirements set forth at §H of this chapter, except for the following who are exempt:

(a) TCA customers; or

(b) Recipients of SSI.



(2) Except when TCA is received only for a child, the income requirement is met by a family that:

(a) Receives TCA; and

(b) Has an annual gross income not exceeding the maximum income for family size as specified in the income eligibility scale set forth at §H of this regulation.

(3) For purposes of determining parental copayments and subsidy amounts, a family's annual or annualized gross income, as defined at Regulation .02B(30) of this chapter, shall be used.

(4) Annualization of gross income shall be performed by multiplying:

(a) Weekly income by 52;

(b) Bi-weekly income by 26;

(c) Twice monthly income by 24;

(d) Monthly income by 12; or

(e) Quarterly gross income by 4.

(5) A customer applying for CCS Program services shall provide acceptable documentation to the contractor of all current income, whether derived from employment or another source, that is received on a regular or a recurring basis by:

(a) The customer; and

(b) Each family member.

(6) Acceptable documentation of employment earnings received, including cash earnings, is limited to:

(a) The most recent 4 weeks of pay stubs indicating gross income from each employer, if the stubs indicate the individual's pay frequency or schedule;

(b) A statement from each employer, signed and dated by the employer or bearing the employer's official business stamp, that indicates the:

(i) Employer's name, address, and telephone number;

(ii) Employer's type of business;

(iii) Gross earnings for the most recent pay period;

(iv) Pay frequency or schedule; and

(v) If available, total gross earnings to date;

(c) The individual's most recent federal income tax return, if filed within the past 12 months;

(d) Payment receipts for services rendered, where the type of employment, such as but not limited to restaurant waitress, beautician, or taxicab driver, may not generate an earnings statement or a pay stub; or

(e) If none of the types of documentation listed at §F(6) of this regulation is able to be produced, a signed and dated statement from the customer attesting to current gross earnings, the frequency or schedule of those earnings, and the type of employment.

(7) The customer shall submit to the contractor the applicable income documentation described at §F(6) of this regulation:

(a) Within 30 calendar days of applying for CCS Program services; and

(b) After approval for CCS Program services, at least annually for the duration of those services.

(8) Special Income Calculation.

(a) Self-Employment.

(i) For income eligibility determination purposes, a flat 30% is subtracted from the annual gross taxable self-employment income amount for business-related expenses.

(ii) A salary drawn by the customer from a business owned wholly or in part by the customer shall not be applied toward calculation of the customer's gross income.

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(b) Military Service Pay.

(i) Paid rental and mortgage fees shall be deducted from the allowance and only the excess amount shall be counted as gross income.

(ii) If a military spouse is absent from the home solely due to military deployment, the spouse’s gross income shall be counted as a part of the family gross income.

(c) Child Support.

(i) The customer’s three most recent consecutive months of support payments shall be counted as gross income.

(ii) If a customer has received child support for less than three months, an average of the payments received to date will be used to determine gross income.

(iii) Payments that are made directly to a vendor on a regular basis on behalf of the customer shall be counted as gross income.

(iv) If in-kind support is received, the customer shall apply a fair market value to the item or service and count that value as gross income.

G. To maintain eligibility for CCS Program services, a family or individual shall report to the local department within 10 days of its occurrence any change in:

- (1) Income;
- (2) Employment;
- (3) Family composition;
- (4) Marital status;
- (5) Address; and
- (6) Needed hours or days for child care services.

H. Income Eligibility Scale.

Family Size	Gross Income	Copayment Level
1	\$ 0—13,618	A
	13,619—17,022	B
	17,023—18,724	C
	18,725—20,425	D
	20,426—22,128	E
	22,129—23,830	F
	23,831—25,533	G
	25,534—29,362	H
	29,363—33,192	I
	33,193—37,193	J
2	\$ 0—17,808	A
	17,809—22,259	B
	22,260—24,485	C
	24,486—26,710	D
	26,711—28,936	E
	28,937—31,163	F
	31,164—33,389	G

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Family Size	Gross Income	Copayment Level
	33,390—38,397	H
	38,398—43,405	I
	43,406—48,637	J
3	\$ 0—21,998	A
	21,999—27,496	B
	27,497—30,247	C
	30,248—32,995	D
	32,996—35,745	E
	35,746—38,495	F
	38,496—41,245	G
	41,246—47,431	H
	47,432—53,617	I
	53,618—60,081	J
4	\$ 0—26,188	A
	26,189—32,734	B
	32,735—36,008	C
	36,009—39,279	D
	39,280—42,554	E
	42,555—45,828	F
	45,829—49,102	G
	49,103—56,466	H
	56,467—63,830	I
	63,831—71,525	J
5	\$ 0—30,378	A
	30,379—37,971	B
	37,972—41,769	C
	41,770—45,564	D
	45,565—49,362	E
	49,363—53,160	F
	53,161—56,958	G
	56,959—65,501	H
	65,502—74,043	I
	74,044—82,969	J
6	\$ 0—34,568	A
	34,569—43,208	B
	43,209—47,530	C
	47,531—51,849	D
	51,850—56,171	E

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Family Size	Gross Income	Copayment Level
	56,172—60,493	F
	60,494—64,814	G
	64,815—74,535	H
	74,536—84,256	I
	84,257—94,413	J
7	\$ 0—35,354	A
	35,355—44,190	B
	44,191—48,611	C
	48,612—53,027	D
	53,028—57,447	E
	57,448—61,867	F
	61,868—66,287	G
	66,288—76,229	H
	76,230—86,171	I
	86,172—96,558	J
8	\$ 0—36,139	A
	36,140—45,173	B
	45,174—49,691	C
	49,692—54,206	D
	54,207—58,724	E
	58,725—63,242	F
	63,243—67,760	G
	67,761—77,923	H
	77,924—88,086	I
	88,087—98,704	J
9	\$ 0—36,925	A
	36,926—46,155	B
	46,156—50,771	C
	50,772—55,384	D
	55,385—60,001	E
	60,002—64,617	F
	64,618—69,233	G
	69,234—79,617	H
	79,618—90,001	I
	90,002—100,850	J
10	\$ 0—37,711	A
	37,712—47,137	B
	47,138—51,851	C
	51,852—56,562	D

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Family Size	Gross Income	Copayment Level
	56,563—61,277	E
	61,278—65,992	F
	65,993—70,707	G
	70,708—81,311	H
	81,312—91,916	I
	91,917—102,996	J

**.04 Pursuit of Child Support Obligations.**

A. A customer who has the care of a child eligible for child support services pursuant to COMAR 07.07.02.02B(4) shall pursue the establishment and enforcement of support obligations on behalf of the child as required by the contractor.

B. If the customer is pursuing or receiving regular child support payments for the child, the customer shall furnish documentation verifying this action to the contractor at the time of application for child care services.

C. Local Child Support Enforcement (CSE) Agency.

(1) If the customer is not pursuing or receiving regular child support payments for the child and cannot claim good cause for refusing to pursue child support pursuant to §E of this regulation, the contractor shall refer the applicant to the local CSE agency.

(2) The local CSE agency shall provide documentation of the:

- (a) Application for CSE services to the customer; and
- (b) Closing of the case by CSE to the CCS unit.

(3) The customer shall submit documentation of CSE services for each child for whom care is requested to the contractor within 60 days of applying for child care services.

(4) A customer who fails to comply with §C(3) of this regulation is not eligible for CCS services.

D. Unless excused for good cause, the customer shall cooperate with the local CSE agency in:

- (1) Identifying and locating the child's absent parent;
- (2) Establishing the child's paternity if the child is born out of wedlock; and
- (3) Obtaining support payments.

E. Refusal to Cooperate.

(1) Good cause circumstances are those when:

- (a) Cooperation may result in serious physical or emotional harm to the child for whom the support is sought;
- (b) Cooperation may result in serious physical or emotional harm to the customer with whom the child is living, which may reduce the capacity of the customer to care adequately for the child;
- (c) The child for whom support is sought was conceived as a result of incest or rape;
- (d) Legal proceedings for the child's adoption are pending before a court of competent jurisdiction; or
- (e) The customer is being assisted by a public or licensed private social agency to resolve the issue of keeping or relinquishing the child for adoption, and the discussions have not extended beyond 3 months.

(2) When the contractor refers the customer to the local CSE agency, the contractor shall inform the customer in writing of the customer's right to claim good cause for refusing to cooperate with the local CSE agency.

F. Determination of Good Cause.

(1) The contractor is responsible for determining the existence of good cause.

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- (2) The customer shall provide the contractor with:
  - (a) Verified or verifiable evidence that specifies and corroborates circumstances that the customer believes is sufficient good cause for not cooperating; and
  - (b) Sufficient information to permit an investigation.
- (3) The customer shall supply corroborative evidence within 30 days of making the claim for good cause.
- (4) The contractor shall determine good cause based on:
  - (a) A review of the evidence submitted by the customer; and
  - (b) The findings of any investigation of the claim that the contractor chooses to make.
- (5) The contractor may determine good cause without further investigation if the following acceptable documentation indicates that harm may result:
  - (a) A birth certificate or medical or law enforcement record indicating that the child was conceived as a result of incest or rape;
  - (b) A court document or other record indicating that legal proceedings for adoption are pending before a court of competent jurisdiction;
  - (c) A court, medical, criminal, child protective services, psychological, social services, or law enforcement record indicating that the putative father or absent parent might inflict physical or emotional harm on the child or the customer;
  - (d) A medical record indicating the emotional health history and the present emotional health status of the child or the customer;
  - (e) A written statement from a mental health professional indicating a diagnosis or prognosis of the emotional health of the child or the customer;
  - (f) A written statement from a public or licensed private social agency that the customer is being assisted by the agency to resolve the issue of keeping or relinquishing the child for adoption and the discussions have not extended beyond 3 months; or
  - (g) Sworn statements from individuals other than the customer with knowledge of the circumstances that provide the basis for a good cause claim.
- (6) The contractor shall inform the customer in writing of the final determination.
- (7) Upon making a final determination, and if the customer is receiving services from the CSE agency, the contractor shall promptly inform the local CSE agency whether or not there is good cause for refusal to cooperate.
- (8) The contractor shall deny CCS services to the customer if a claim of good cause cannot be substantiated as required in this section.
- (9) The contractor may not deny, delay, or terminate child care subsidy services pending determination of good cause if the customer has met the requirements of §F(2) of this regulation.

G. Review of Determination of Good Cause.

- (1) The contractor shall review, at a minimum during redetermination of eligibility, all cases in which a finding of good cause was made based on a circumstance that is subject to change.
- (2) If the contractor determines that the circumstance providing the basis for determination of good cause no longer exists, the contractor shall require the customer to pursue the establishment and enforcement of child support obligations.

H. A customer transitioning off of TCA who does not have a child support order or who is not receiving child support shall cooperate with the contractor and the local CSE agency to continue, establish, or re-establish child support services.

I. A customer who has the care of a child eligible for child support services and refuses to cooperate with the local CSE agency and the contractor on behalf of the child is ineligible for CCS services unless:

- (1) The customer claims good cause for the refusal; and
- (2) Documentation supporting good cause for the refusal is under review, or is determined to exist.

**.05 Application Process.**

A. A customer shall apply to the contractor for CCS Program services.

B. In order to be approved to receive CCS Program services, a customer shall submit a complete application to the contractor by fax or mail, which shall consist of:

- (1) A completed, signed, and dated CCS Program services application form approved by the Division;
- (2) Verification of employment earnings;
- (3) If applicable, verification of training or school attendance with days and hours of the activity; and
- (4) If applicable, verification of child support payments or an application to agree to pursue child support.

C. The contractor shall decide to accept or deny the application within:

(1) 30 calendar days from the date of receipt of the signed application, if all verifications are received by the 25th day following application; or

(2) 35 calendar days from the date of receipt of the signed application, if all verifications are:

- (a) Received between the 25th and 30th days following application; or
- (b) Not received by the contractor.

D. The customer is eligible from the date a signed application is received if the contractor determines that the customer is eligible for services.

E. Program Freeze.

(1) The contractor shall inform a customer that a program freeze exists and that a child care placement cannot be made immediately when the:

(a) List of available providers has been exhausted and a provider cannot be located who is either acceptable to the parent or appropriate to the child; or

(b) Funds are not available to provide the service.

(2) The contractor shall maintain a list of all eligible customers by date of application and in accordance with the service priorities established under Regulation .08A of this chapter.

F. Denial. The contractor shall deny the application if the customer:

(1) Fails to meet all applicable eligibility requirements set forth at Regulation .03 of this chapter;

(2) Was terminated from CCS Program services for failure to pay the required copayment or inability to provide proof of payment;

(3) Fails to provide the required documentation within 30 days of initiating an application;

(4) Is disqualified for CCS payment pursuant to Regulation .14M of this chapter and the disqualification period has not ended; or

(5) Fails to provide acceptable proof of identity for a child for whom CCS Program services are requested.

G. Notice. The contractor shall send a written denial notice to the customer that includes:

(1) The decision;

(2) The basis for the decision;

(3) The regulation supporting the decision; and

(4) An explanation of the customer's hearing and appeal rights.

**.06 Provider Requirements.**

A. Subsidized child care services may be provided only by:

(1) A family child care home;

(2) A child care center; or

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(3) An individual approved by the CCS Branch to provide informal child care.

B. Maryland EXCELS Participation.

(1) Effective June 29, 2015, the operator of a child care center or a family child care home may not receive CCS Program reimbursement for child care services provided on or after that date unless the operator has applied on or before that date to participate in Maryland EXCELS.

(2) Within 12 months of acceptance into Maryland EXCELS, the operator of a child care center or a family child care home shall request Maryland EXCELS to publish the program’s quality rating in order to remain eligible for continued CCS Program reimbursement.

(3) An informal child care provider is not eligible to participate in the Maryland EXCELS program.

C. Tiered Reimbursement.

(1) Eligibility for tiered reimbursement payments is limited to a child care center or a family child care home that has a published Maryland EXCELS quality rating level of 3, 4, or 5.

(2) An informal child care provider is not eligible for tiered reimbursement payments.

(3) An eligible provider shall be paid a tiered reimbursement amount for each CCS Program child in care that is:

- (a) In addition to the child’s subsidy payment; and
- (b) Reflective of the applicable percentage specified at §C(4) of this regulation.

(4) A tiered reimbursement payment amount is determined by multiplying the child’s subsidy amount by the applicable percentage specified for the provider’s Maryland EXCELS level:

	EXCELS Level 3	EXCELS Level 4	EXCELS Level 5
Family Child Care Home			
Child younger than 24 months old	11 percent	22 percent	29 percent
Child 24 months old or older	10 percent	21 percent	28 percent
Child Care Center			
Child younger than 24 months old	22 percent	37 percent	44 percent
Child 24 months old or older	10 percent	19 percent	26 percent

(5) A provider’s tiered reimbursement payments become effective for the first service period following the provider’s publication at Maryland EXCELS at quality level rating 3, 4, or 5.

D. Informal Child Care.

(1) The customer may choose to use an approved informal child care provider.

(2) The contractor shall provide payment for the following informal child care arrangements:

- (a) Relative care;
- (b) In-home care; and
- (c) Babysitting.

(3) In addition to submitting a CCS Program services application, the customer shall submit to the contractor a signed statement, on a form provided by the contractor, that specifies:

- (a) Where the informal care is to be provided;
- (b) The relationship of the child to the informal child care provider; and
- (c) The names and ages of each child who will receive informal child care.

(4) Unless approved as an informal child care provider before April 1, 2015, each individual who provides informal child care shall be a Maryland resident.



(5) An informal child care provider and each individual 18 years old or older who is a resident in the home shall apply for a fingerprint-supported State and federal criminal background check.

(6) Criminal Background Check Review.

(a) An individual who wishes to serve as an informal child care provider and each individual 18 years old or older who is a resident in the home shall apply for a fingerprint-supported State and federal criminal background check.

(b) The CCS Branch may not approve an individual to serve as an informal child care provider if the individual or a resident in the home who is 18 years old or older has received a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of:

(i) A crime involving a child, cruelty to animals, domestic violence, or a weapons or firearms violation of federal or State law;

(ii) A sex offense;

(iii) A violent crime classified as a felony;

(iv) Abduction or kidnapping;

(v) Abuse of a child or an adult;

(vi) Confinement of an unattended child;

(vii) Manufacturing, distributing, or dispensing a controlled dangerous substance;

(viii) Perjury;

(ix) Pornography;

(x) Possession with intent to manufacture, distribute, or dispense a controlled dangerous substance; or

(xi) Reckless endangerment.

(7) Child Abuse and Neglect Record Review.

(a) The contractor shall conduct a child abuse and neglect record review for each individual who:

(i) Applies to serve as an informal provider; or

(ii) Resides in the informal care home and is 18 years old or older.

(b) At least once every 2 years that an informal provider continues to provide care, the contractor shall conduct a new child abuse and neglect record review for:

(i) The provider; and

(ii) Each resident of the home who is 18 years old or older;

(c) The individual applying to serve, or serving, as an informal provider shall submit to the contractor a signed, dated, and notarized consent form that authorizes the CCS Branch to conduct a review of child abuse and neglect records for information about:

(i) The individual; and

(ii) Each resident in the informal child care home who is 18 years old or older.

(d) If a child abuse and neglect record review finds that the subject of the review may have been responsible for abuse or neglect, the contractor shall make a request to the local department of social services for the details of the finding.

(8) Informal Care Home Child Capacity.

(a) Unless approved otherwise by the CCS Branch, an informal child care home may not contain more than:

(i) Six children present in care at the same time; or

(ii) Two children younger than 2 years old in care at the same time.

(b) In determining the maximum child care capacity of an informal care home, the contractor shall count a resident in the home who is younger than 6 years old as a child in care.

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(9) An individual is approved to serve as an informal child care provider as of the date on which the contractor is in possession of documentation showing that the individual and each resident in the home who is 18 years old or older has successfully passed a:

- (a) Criminal background check; and
- (b) Review of records of abuse and neglect of children or adults.

(10) Payment to an approved informal provider is effective on the date that the individual is approved to serve as an informal child care provider.

(11) The contractor may not approve payment:

- (a) If an informal child care provider or a resident in the home who is 18 years old or older has not successfully passed a:
  - (i) Criminal background check; or
  - (ii) Review of records of abuse and neglect of children or adults; or

(b) For any day on which the provider is determined to be out of compliance with the child capacity requirements set forth at §D(8) of this regulation.

(12) Disapproval of payment to an informal provider pursuant to §D(11)(a) of this regulation shall be effective as of the day on which the contractor receives information that the provider or a resident in the home who is 18 years old or older has not successfully passed a criminal history background check or a review of records of abuse and neglect of children or adults.

(13) If payment is disapproved, the contractor shall provide written notification of that disapproval to the:

- (a) Provider; and
- (b) Parent of each child in care.

(14) An individual providing, or applying to provide, informal child care services does not have hearing and appeal rights under the CCS Program except in the case of an intentional program violation.

**.07 Child Care Vouchers.**

**A. Use of Voucher.**

(1) A CCS Program voucher may be used only with:

- (a) A child care center;
- (b) A family child care home; or
- (c) An approved informal child care provider.

(2) An informal child care voucher may be used only for informal child care.

**B. Voucher Issuance.**

(1) A contractor shall:

(a) Issue a voucher to an eligible customer that is:

(i) Effective from the date a signed and dated application is received and all required verifications have been approved; and

(ii) Related to the schedule and duration of the applicant's activity; and

(b) Provide access to information and referral services to assist the customer in finding appropriate child care.

(2) Except for a voucher issued pursuant to Regulation .09A(3) of this chapter, or unless a voucher becomes void pursuant to §B(3) of this regulation, each voucher is valid for a maximum of 12 months from the voucher's issue date if the voucher is returned to the contractor within 60 days of its issue date.

(3) A child care voucher is void if:

- (a) It is not signed by the child care provider and the customer;
- (b) Placement is not made; or

(c) It is not returned to the contractor within 60 days of its issue date.

(4) The contractor shall issue to a customer a notification of the expiration of a voucher at least 15 days before the expiration date to allow for application and review of the customer's eligibility for a new voucher.

(5) A new voucher may be issued if a customer moves to another local jurisdiction in Maryland and the contractor determines that the customer is still eligible for CCS Program services.

#### **.08 Service Groups.**

A. Except that primary consideration within a service priority shall be given to a family requiring CCS Program services for a child with a disability or evidence of homelessness, provision of CCS Program services to a family shall be made according to established service priorities, which are:

(1) Priority 1, the highest service priority, which includes individuals who are receiving TCA and are:

- (a) Job searching;
- (b) Participating in a job readiness activity that has been verified by FIA; or
- (c) Participating in an approved activity for at least 20 hours per week;

(2) Priority 2, which includes individuals who are participating in an approved activity and are in compliance with TCA program requirements when their case closed and:

- (a) Who have received TCA at any time within the prior 6 months;
- (b) Who are no longer eligible for TCA; and
- (c) Whose family income is less than or equal to the amounts listed for copayment levels A through J in Regulation .03H of this chapter, for the family's size; and

(3) Priority 3, the lowest service priority, which includes individuals who are participating in an approved activity and:

- (a) Who are not TCA applicants or recipients; and
- (b) Whose family income is less than or equal to the amounts listed for copayment levels A through J in Regulation .03H of this chapter, for the applicant's family size.

B. If the CCS Program is reduced because of insufficient funds:

(1) The order of the priorities shall be applied in reverse for terminating services; and

(2) Within each service priority, services shall be terminated beginning with customers meeting income eligibility level J criteria, as set forth at Regulation .03H of this chapter, and, if necessary, proceeding in reverse order to income eligibility level A.

#### **.09 Redetermination.**

A. Unless a family with an open case is placed on program freeze status due to insufficient program funds, a contractor shall make a determination of child care need for a family:

- (1) When there are significant changes in the family situation that may affect program eligibility, such as the reportable events set forth at Regulation .03G of this chapter;
- (2) At least every 12 months; or
- (3) Within 10 calendar days of the completion of an Early Head Start or Head Start Program year if the child:
  - (a) Is enrolled in Early Head Start or Head Start; and
  - (b) Receives CCS Program services.

B. At redetermination, if a family with a child enrolled in Early Head Start or Head Start has an income that is overscale, the family shall continue in the CCS Program at income level J for the remainder of the Early Head Start or Head Start program year.

#### **.10 Termination.**

A. The contractor shall terminate CCS Program payments if the:

- (1) Program is reduced because of insufficient funds or is oversubscribed;

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- (2) Contractor determines that the parent violates the requirements of the CCS Program; or
- (3) Customer:
  - (a) Fails to submit a complete application as specified at Regulation .05B of this chapter;
  - (b) Is no longer eligible on the basis of need or of income;
  - (c) Fails to pay the copayment, recorded on the voucher, when it is due;
  - (d) Commits welfare fraud as defined in the Criminal Law Article, §§8-501—8-504, Annotated Code of Maryland, and cited in the terms of agreement of the child care subsidy voucher;
  - (e) Fails to provide documentation required by the contractor to re-determine eligibility;
  - (f) Having care of a child eligible for child support services, refuses to cooperate with the State in pursuing child support obligations unless good cause is determined to exist;
  - (g) Fails to report any change, as specified in Regulation .03G of this chapter, that results in the receipt of benefits for which the applicant is not eligible;
  - (h) Fails to verify immunizations appropriate to the child's age pursuant to Regulation .03D of this chapter for each child receiving services; or
  - (i) Has been disqualified pursuant to Regulation .14O of this chapter, and the disqualification period has not ended.

**B. Notification of Termination.**

- (1) Except for parents and providers who do not return the signed voucher to the contractor within 60 days, the contractor shall send a written notice to the parent and the provider at least 5 calendar days before termination of child care services or reduction of child care benefits that specifies the:
  - (a) Action to be taken;
  - (b) Reason for the action;
  - (c) Regulatory basis for the action; and
  - (d) Parent's hearing and appeal rights.
- (2) If a voucher is written for less than 5 calendar days, the notification period does not apply.

**.11 Payments for Child Care Services.**

**A. Basis of Payment.**

- (1) A sufficient number of invoice forms will be sent to the provider to cover the necessary service periods of a voucher after the voucher has been returned to the local department.
- (2) A child care provider is paid:
  - (a) According to the weekly service unit rates as set out in §§B—D of this regulation for subsidies and Regulation .10B of this chapter for copayments;
  - (b) Based on 21.69 days in each month; and
  - (c) For authorized service units only.
- (3) A separate payment rate is established for each of the following seven CCS service regions within the State for family homes and child care centers:
  - (a) Region U, which comprises Cecil, Queen Anne's, St. Mary's, Talbot, and Washington counties;
  - (b) Region V, which comprises Caroline, Dorchester, Kent, Somerset, and Wicomico counties;
  - (c) Region W, which comprises Anne Arundel, Calvert, Carroll, Charles, and Prince George's counties;
  - (d) Region X, which comprises Howard and Montgomery counties;
  - (e) Region Y, which comprises Baltimore, Frederick, and Harford counties;
  - (f) Region Z, which comprises Allegany, Garrett, and Worcester counties; and
  - (g) Region BC, which is Baltimore City.

**B. Rate of Payment and Cost Guidelines — Family Child Care Home.**

- (1) This section shall apply only to a family child care home that is registered to operate pursuant to COMAR 13A.15.
- (2) The amount paid to a family child care provider who cares for a child in the provider's home is the lowest of the:
  - (a) Regional weekly service unit rates established by this regulation;
  - (b) Weekly rate charged to the general public by the provider if that rate is comparable and competitive with the going rate in the community; or
  - (c) Actual cost of care.
- (3) The regional weekly service unit rates specified in this subsection are based on three units of service per day. For two-unit and one-unit regional weekly rates, multiply by  $\frac{2}{3}$  and  $\frac{1}{3}$ , respectively, the following regional weekly rates:
  - (a) Rate for a child 24 months old or older:
    - (i) Region U — \$93.63;
    - (ii) Region V — \$83.11;
    - (iii) Region W — \$115.97;
    - (iv) Region X — \$147.43;
    - (v) Region Y — \$115.91;
    - (vi) Region Z — \$85.46; and
    - (vii) Region BC — \$106.35; or
  - (b) Rate for a child younger than 24 months old:
    - (i) Region U — \$123.00;
    - (ii) Region V — \$100.34;
    - (iii) Region W — \$156.71;
    - (iv) Region X — \$184.50;
    - (v) Region Y — \$148.63;
    - (vi) Region Z — \$97.38; and
    - (vii) Region BC — \$141.08.

**C. Rate of Payment and Cost Guidelines — Child Care Center and Large Family Child Care Home.**

- (1) The amount paid to a child care center is the lowest of the:
  - (a) Regional weekly service unit rates established by this regulation;
  - (b) Weekly rate charged to the general public by the child care center if that rate is comparable and competitive with the going rate in the community; or
  - (c) Actual cost of care.
- (2) The regional weekly service unit rates specified in this subsection are based on three units of service per day. For two-unit and one-unit regional weekly rates, multiply by  $\frac{2}{3}$  and  $\frac{1}{3}$ , respectively, the following regional weekly rates:
  - (a) Rate for a child 24 months old or older:
    - (i) Region U — \$108.24;
    - (ii) Region V — \$91.25;
    - (iii) Region W — \$126.00;
    - (iv) Region X — \$166.95;
    - (v) Region Y — \$128.18;

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- (vi) Region Z — \$87.79; and
- (vii) Region BC — \$112.16; or
- (b) Rate for a child younger than 24 months old:
  - (i) Region U — \$172.42;
  - (ii) Region V — \$146.79;
  - (iii) Region W — \$199.88;
  - (iv) Region X — \$261.38;
  - (v) Region Y — \$208.29;
  - (vi) Region Z — \$112.75; and
  - (vii) Region BC — \$187.79.

D. The informal child care weekly service unit rates specified in this section are based on three units of service per day. For two-unit and one-unit regional weekly rates, multiply by  $\frac{2}{3}$  and  $\frac{1}{3}$ , respectively, the following jurisdictional weekly rates:

- (1) Rate for a child 24 months old or older:
  - (a) Allegany County — \$53.76;
  - (b) Anne Arundel County — \$56.81;
  - (c) Baltimore County — \$60.38;
  - (d) Calvert County — \$56.81;
  - (e) Caroline County — \$41.53;
  - (f) Carroll County — \$56.81;
  - (g) Cecil County — \$53.76;
  - (h) Charles County — \$56.81;
  - (i) Dorchester County — \$41.53;
  - (j) Frederick County — \$60.38;
  - (k) Garrett County — \$54.01;
  - (l) Harford County — \$60.38;
  - (m) Howard County — \$75.92;
  - (n) Kent County — \$41.53;
  - (o) Montgomery County — \$75.92;
  - (p) Prince George's County — \$56.81;
  - (q) Queen Anne's County — \$46.88;
  - (r) St. Mary's County — \$53.76;
  - (s) Somerset County — \$41.53;
  - (t) Talbot County — \$46.88;
  - (u) Washington County — \$54.01;
  - (v) Wicomico County — \$41.53;
  - (w) Worcester County — \$44.07; and
  - (x) Baltimore City — \$54.77; or

## (2) Rate for a child younger than 24 months old:

- (a) Allegany County — \$62.93;
- (b) Anne Arundel County — \$71.84;
- (c) Baltimore County — \$71.84;
- (d) Calvert County — \$71.84;
- (e) Caroline County — \$46.88;
- (f) Carroll County — \$73.12;
- (g) Cecil County — \$55.28;
- (h) Charles County — \$71.84;
- (i) Dorchester County — \$46.88;
- (j) Frederick County — \$71.84;
- (k) Garrett County — \$62.93;
- (l) Harford County — \$71.84;
- (m) Howard County — \$90.95;
- (n) Kent County — \$46.88;
- (o) Montgomery County — \$90.95;
- (p) Prince George's County — \$71.84;
- (q) Queen Anne's County — \$55.28;
- (r) St. Mary's County — \$62.93;
- (s) Somerset County — \$46.88;
- (t) Talbot County — \$55.28;
- (u) Washington County — \$55.28;
- (v) Wicomico County — \$46.88;
- (w) Worcester County — \$46.88; and
- (x) Baltimore City — \$69.04.

## E. Additional Costs.

(1) A payment rate schedule is established for children attending public or nonpublic elementary or middle schools for the full school day who receive child care services. The payment rate schedule is:

- (a) Paid pursuant to the maximum payment rates listed in §§B—D of this regulation;
- (b) Valid when authorized child care services are provided:
  - (i) On a regular basis beyond school hours; and
  - (ii) When schools are closed during the school year;
- (c) Based on a 42-week payment schedule that is calculated by averaging the child's rate for:
  - (i) 36 weeks of one or two authorized service units per day when school is scheduled to be in session; and
  - (ii) 6 weeks of three authorized service units per day when school is scheduled to be closed; and
- (d) Applied to an uninterrupted 10-week school vacation when:
  - (i) The vacation period is not included in §F(1)(b)(ii) of this regulation; and
  - (ii) The care is authorized by the contractor for three units of service a day.

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(2) The 52-week payment schedule is established for children attending public or nonpublic elementary or middle schools for the full school day that are open year-round and is calculated by averaging the child's rate for:

- (a) 36 weeks of one or two authorized service units per day when school is scheduled to be in session;
- (b) 6 weeks of three authorized service units per day when school is scheduled to be closed; and
- (c) 10 designated school vacation weeks of three authorized service units per day.

(3) The contractor shall approve additional costs that exceed the payment rates specified in §§B—D of this regulation when child care is provided during nontraditional hours. Nontraditional hours are:

- (a) 1 hour or more between 7 p.m. and 6 a.m. on Monday through Friday; and
- (b) Any period of 1 hour or more on Saturday or Sunday.

(4) Additional costs above the rates shall be authorized for care provided weekly during nontraditional hours up to:

- (a) 5 percent for one unit of care;
- (b) 10 percent for two units of care; or
- (c) 15 percent for three units of care.

(5) For a child with a disability, the payment rates specified in §§B and C of this regulation apply, except if the service provider offers documentation to the contractor that the cost of caring for the child with a disability exceeds the reasonable accommodation definition.

(6) The State may assist with one-time only or ongoing accommodation costs for materials or personnel if:

(a) The provider submits to the contractor a completed special disability rate request form, supplied by the contractor, that describes the need for the special accommodation; and

(b) The accommodation does not create a significant difficulty or expense.

(7) Upon receipt of a special disability rate request form that meets the requirements of §E(6)(a) of this regulation, the contractor shall:

(a) Approve the additional cost not to exceed the annual allocated amount up to 15 percent above the rates set out in §§B and C of this regulation; or

(b) If the requested cost exceeds 15 percent, submit a recommendation to the CCS Branch for approval of a higher payment not to exceed the annual allocated amount.

F. Payment Policy.

(1) The contractor shall process payment for the provider for CCS Program services through a completed invoice or other means approved by the CCS Branch.

(2) The rate paid to the provider is based on the region in which the:

- (a) Child care is given if the provider is a:
  - (i) Family child care provider; or
  - (ii) Center child care provider; or

(b) Child resides, if the provider is an informal child care provider.

(3) The subsidy to be paid to a provider by the contractor is computed by subtracting the applicable weekly copayment for each child in the family receiving child care subsidy services, as set forth in Regulation .10B—C of this chapter, from the lowest of the:

- (a) Weekly actual cost of care;
- (b) Weekly local market rate; or
- (c) Weekly applicable maximum provider payment rate set forth in Regulation .09B—D of this chapter.

(4) A provider is paid only for the time authorized by the voucher and may not be paid in excess of that time.



(5) A provider may not be paid for more than:

(a) The maximum full-time equivalent slots authorized for care by the Office of Child Care, Licensing Branch for care that is licensed or registered; or

(b) In accordance with Regulation .11D of this chapter, the amount allowed for informal child care.

(6) Except for vouchers written for less than 5 calendar days in accordance with Regulation .07B(2) of this chapter, and subject to §F(12)(a)(vi) of this regulation, the contractor shall pay for a 5 calendar day termination notification period to a provider of:

(a) Family child care; or

(b) Center child care.

(7) If a voucher signed by the parent and the provider is not received by the contractor within 60 calendar days of issuance, the provider may not be paid:

(a) Without attendance records signed by the provider and parent; or

(b) For the first 60 calendar days of the voucher.

(8) Except that holidays are included in the payment schedule pursuant to §E(1) and (2) of this regulation and not paid separately, family child care providers and center child care providers are paid for six holidays including Christmas, New Year's Day, Memorial Day, Independence Day, Labor Day, and Thanksgiving Day, according to the:

(a) Number of children enrolled in care the day before the holiday; and

(b) Enrollment status of the child during the period in which the holiday falls.

(9) Family child care and center child care providers shall be paid for those days when the services are closed for:

(a) An official emergency that is declared by the State or local government; and

(b) Voluntary closure days, as defined at Regulation .02B of this chapter, when:

(i) Child care services are not provided;

(ii) The period of voluntary closure does not include more than 2 consecutive weeks annually; and

(iii) Except in cases of provider or family illness or death, the provider gives 2 weeks written notice of closure to the parent and the contractor.

(10) Family child care and center child care providers are paid for the time a child is absent up to 60 calendar days per calendar year, except that in the case of illness or injury of the child, documented by a health practitioner, the contractor may authorize additional absences.

(11) Payment may not be made to an informal child care provider for any holiday or for any child absence, except that for eligible customers, payments shall be made for a Christmas Day, New Year's Day, Memorial Day, Independence Day, Labor Day, or Thanksgiving Day if the provider submits verification of child attendance in care.

(12) Payment, including that for the termination notification period, may not be made to a provider if:

(a) The provider:

(i) Denies parental access to the child;

(ii) Has been identified as responsible for child abuse or neglect, as defined in COMAR 13A.15.01.02B;

(iii) Is the child's parent, stepparent, or legal guardian, or is a member of the child's CCS or TCA assistance unit;

(iv) Fails to give 5 calendar days written notice of service termination to the parent;

(v) Has been disqualified pursuant to Regulation .14M of this chapter and the disqualification period has not ended;

(vi) Has committed an intentional program violation;

(vii) If required to be licensed or registered, is not licensed or registered;

(viii) Has had a child care license or registration suspended or revoked;

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(ix) If required to submit an affirmation of compliance with health and safety standards, has not submitted the affirmation;

(x) Has not submitted a signed release of information form consenting to a review of child abuse and neglect records;

(xi) Has not applied for a criminal background check;

(xii) Has a criminal history that includes a conviction, a probation before judgment disposition, a not criminally responsible disposition, or a pending charge for the commission or attempted commission of a crime listed at Regulation .06D(6) of this chapter; or

(b) The contractor has documented information indicating that the provider, a resident in the informal child care home, or the informal child care home itself presents a risk to the health or safety of a child in care.

(13) Stoppage of payment to a provider whose child care license or registration has been suspended or revoked is based on the date of the suspension or revocation notice.

(14) Effective June 29, 2015, payment may not be made to a family child care home or a child care center unless the home or center is participating, or has applied for participation in, Maryland EXCELS and a quality rating has been assigned and published by Maryland EXCELS.

(15) An informal child care provider may not require or request a parent to pay a fee that is in addition to the copayment required by the State.

G. Method of Payment.

(1) State Payment.

(a) The contractor shall pay a provider upon approval of an invoice submitted within 60 calendar days of the end date of the last service period.

(b) The amount of the invoice shall match the authorized service units listed on the voucher.

(c) Payment may not be made for any units in excess of those authorized by the voucher.

(2) Parental Payment.

(a) Parental payment for child care services shall be made directly to the provider at times set by the provider and shall follow the payment policy of the provider.

(b) The parent shall pay the provider the copayment listed on the voucher.

(c) The provider shall give the parent a receipt for the full amount of the parent's payment.

(3) An invoice adjustment may be made within 12 months after the end of the month in which services were provided.

H. Payment Irregularities.

(1) Overpayments are collected from:

(a) Customers when they fail to report a timely change;

(b) Providers when they fail to correctly report information;

(c) A customer or provider who benefits from an erroneous service reimbursement made by the contractor.

(2) Calculation of Overpayments. A provider or a customer overpayment, whether it occurs due to incorrect or incomplete information at application, or to a change in the customer's or provider's circumstances that was unreported or reported late, shall:

(a) Be counted from the beginning of the service period; and

(b) Include each subsequent service period in which the incorrect subsidy reimbursement is identified.

(3) The contractor shall calculate the amount of an overpayment to a customer or a provider by determining the:

(a) Correct amount to be paid;

(b) Amount of the incorrect payment; and

(c) Difference between the correct and incorrect payment amounts.

(4) Notification.

(a) In the event of an overpayment to a customer or a provider, the contractor shall notify the recipient of the overpayment within 30 calendar days after the discovery of the overpayment.

(b) If, 30 calendar days after the overpayment notification specified at §H(4)(a) of this regulation was sent, there is no response from the overpayment recipient, the contractor shall promptly send a second overpayment notification to the recipient.

(c) If, 30 calendar days after the second overpayment notification specified at §H(4)(b) of this regulation was sent, there is no response from the overpayment recipient, the contractor shall promptly send a third overpayment notification to the recipient.

(5) Recovery from a customer or a provider of an overpayment amount shall be made by:

(a) Repayment of the full amount by the customer or the provider, as applicable; or

(b) If the overpayment amount was paid to the provider, reduction of continuing child care payments.

(6) If a customer or a provider does not pay the repayment of an overpayment amount as directed by the contractor, the contractor shall request that the State take action to collect that amount.

(7) If an overpayment is recovered incrementally, it shall be recovered at a monthly rate of:

(a) 10 percent of the overpayment for cases not involving fraud; or

(b) 20 percent of the overpayment for cases involving fraud.

(8) The contractor shall promptly correct any underpayment to a recipient or a service provider.

## **.12 Copayments.**

### **A. Parental Copayments.**

(1) An individual or family who uses CCS Program services shall contribute financially to the cost of those services, except for the following, who are exempt:

(a) TCA applicants or recipients pursuant to Regulation .08A(1) of this chapter;

(b) SSI recipients; or

(c) A CCS customer for a voucher issued for a voluntary closure period as defined in Regulation .02B of this chapter.

(2) Except for additional vouchers issued for voluntary closure days, parental copayments are paid to a provider based on the provider's payment schedule and shall include a minimum copayment, as listed on the child care voucher and in accordance with Regulation .11A(2) of this chapter.

(3) Except as exempted under §A of this regulation, parental copayments are assessed for three or fewer children who are receiving child care subsidy services. Copayments are assessed for services provided to an eligible child as follows:

(a) The youngest child in care is assessed the highest copayment;

(b) The second child in care, who is the next oldest, is assessed a lower copayment;

(c) The third child in care, who is the next oldest in age to the second child, is assessed the same copayment amount as the second child; and

(d) No copayment is assessed for the fourth child and subsequent children.

(4) Parental copayments are determined on the basis of family size and income as set forth in Regulation .03H of this chapter.

### **B. Regional Weekly Copayment Tables.**

(1) These regional weekly copayment tables are based on three units of service per day. For the two-unit and one-unit regional weekly copayments, multiply the figures in §B(2) and (3) of this regulation by 2/3 and 1/3 respectively.

(2) Copayments for a Child 24 Months Old and Older in Family Child Care or Center Care.

(a) Copayments Amounts for First (Youngest) Child in Care.

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Copayment Level	Region U	Region V	Region W	Region X	Region Y	Region Z	Region BC
A	\$4.56	\$4.03	\$5.60	\$7.22	\$5.54	\$4.12	\$5.15
B	7.29	6.45	8.95	11.55	8.77	6.59	8.24
C	11.85	10.49	14.55	18.77	14.31	10.71	13.40
D	17.32	15.33	21.26	27.44	21.00	15.65	19.58
E	22.79	20.17	27.98	36.10	27.69	20.59	25.76
F	29.18	25.82	35.81	46.21	35.31	26.36	32.98
G	35.56	31.47	43.64	56.32	43.15	32.12	40.19
H	41.03	36.31	50.36	64.99	49.85	37.06	46.37
I	43.77	38.73	53.54	69.32	53.08	39.54	49.46
J	45.59	40.34	55.61	72.21	55.38	41.18	51.52

(b) Copayments Amounts for Second and Third Children in Care.

Copayment Level	Region U	Region V	Region W	Region X	Region Y	Region Z	Region BC
A	\$2.74	\$2.42	\$3.36	\$4.33	\$3.23	\$2.47	\$3.09
B	5.47	4.84	6.71	8.66	6.69	4.94	6.18
C	9.12	8.07	11.19	14.44	11.08	8.24	10.30
D	12.76	11.30	15.67	20.22	15.46	11.53	14.43
E	18.24	16.14	22.38	28.88	22.15	16.47	20.61
F	22.79	20.17	27.98	36.10	27.69	20.59	25.79
G	28.27	25.01	34.69	44.77	34.15	25.53	31.94
H	31.91	28.24	39.17	50.54	38.77	28.83	36.07
I	34.65	30.66	42.52	54.88	42.00	31.30	39.16
J	36.47	32.27	44.76	57.76	44.31	32.95	41.22

(c) A copayment is not assessed for subsequent children in a family who are:

- (i) The oldest children in the family pursuant to §A(3) of this regulation; and
- (ii) Receiving CCS Program services.

(3) Copayments for a Child Younger than 24 Months Old in Family Child Care or Center Care.

(a) Copayments Amounts for First (Youngest) Child in Care.

Copayment Level	Region U	Region V	Region W	Region X	Region Y	Region Z	Region BC
A	\$5.82	\$4.88	\$7.62	\$9.05	\$7.17	\$4.53	\$6.84
B	9.31	7.81	12.20	14.48	11.47	7.25	10.95
C	15.13	12.70	19.82	23.53	18.63	11.79	17.80

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Copayment Level	Region U	Region V	Region W	Region X	Region Y	Region Z	Region BC
D	22.12	18.56	28.97	34.39	27.23	17.23	26.01
E	29.10	24.42	38.12	45.25	35.83	22.67	33.69
F	37.25	31.25	48.79	57.92	45.86	29.01	42.46
G	45.40	38.09	59.46	70.59	55.89	35.36	51.46
H	52.38	43.95	68.61	81.45	64.49	40.80	59.08
I	55.87	46.88	73.18	86.88	68.79	43.52	62.77
J	58.20	48.83	76.23	90.46	71.66	45.34	65.31

(b) Copayments Amounts for Second and Third Children in Care.

Copayment Level	Region U	Region V	Region W	Region X	Region Y	Region Z	Region BC
A	\$3.49	\$2.93	\$4.57	\$5.43	\$4.30	\$2.72	\$4.11
B	6.98	5.86	9.15	10.86	8.60	5.44	8.21
C	11.64	9.77	15.25	18.10	14.33	9.07	13.69
D	16.30	13.67	21.35	25.34	20.06	12.69	19.17
E	23.28	19.53	30.49	36.20	28.66	18.13	27.38
F	29.10	24.42	38.12	25.25	35.83	22.67	33.69
G	36.09	30.28	47.26	56.11	44.43	28.11	41.31
H	40.74	34.18	53.36	63.35	50.16	31.73	46.38
I	44.23	37.11	57.94	68.78	54.46	34.46	50.08
J	46.56	39.07	60.99	72.40	57.33	36.27	52.62

(c) A copayment is not assessed for subsequent children in a family who are:

- (i) The oldest children in the family pursuant to §A(3) of this regulation; and
- (ii) Receiving CCS Program services.

C. A family using informal care shall pay a copayment amount which is equal to the amount produced by multiplying the appropriate percentage from the following table by the informal care weekly rate in the jurisdiction where the child resides:

(1) Copayments Amounts for First (Youngest) Child in Care.

Copayment Level	Copayment Percentage
A	5%
B	8%
C	13%
D	19%
E	25%

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Copayment Level	Copayment Percentage
F	32%
G	39%
H	45%
I	48%
J	50%

(2) Copayments Amounts for Second and Third Children in Care.

Copayment Level	Copayment Percentage
A	3%
B	6%
C	10%
D	14%
E	20%
F	25%
G	31%
H	35%
I	38%
J	40%

(3) A copayment is not assessed for subsequent children in a family who are:

- (a) The oldest children in the family pursuant to §A(3) of this regulation; and
- (b) Receiving CCS Program services.

D. Determination of Weekly Copayments.

(1) In Regulation .03H of this chapter, the contractor shall find the family size and income to identify the corresponding copayment level letter, and:

(a) Refer to the weekly copayment tables for regulated care listed under §B of this regulation to locate the appropriate regional weekly copayment for the:

- (i) Youngest child in the family in care; and
- (ii) Second and third oldest children in the family in care; and

(b) Determine the weekly copayment for informal child care by multiplying the appropriate regional weekly copayment percentage by the appropriate weekly informal rate, which may not exceed the rates listed in §C of this regulation by the appropriate weekly informal rate, which may not exceed the rates listed in Regulation .11D of this chapter.

(2) For any family size greater than ten, the weekly copayment is the same as for a family of ten.

**.13 Confidentiality.**

A. Except under certain circumstances established by law, information provided by a family in applying for a federal, State, or local jurisdiction assistance program is protected from disclosure under the:

- (1) Food Stamp Act of 1977, as amended; and
- (2) Human Services Article, §1-202, Annotated Code of Maryland.

B. A family has the right to review its case file after providing a written request to the CCS Branch.

C. Information obtained from families applying for assistance may be released, without written consent, to an individual directly connected with the administration or enforcement of the CCS Program.

D. Except when a release of information is completed by the family and is on file in the customer's record, a contractor may not share family information with a provider.

E. A victim of domestic violence whose address is protected under Maryland law or policy may use substitute address information to apply for services.

**.14 Intentional Program Violations.**

A. Notice of intentional program violation disqualification penalties shall be posted in clear and prominent lettering on the:

- (1) CCS Program application form used by a customer to apply for child care subsidy; and
- (2) Terms of agreement completed by a provider when a child is enrolled for CCS Program services.

B. If the contractor receives information that a customer or a provider may have committed an intentional program violation, the contractor may:

(1) Refer the information to the Division's fraud investigator, who shall:

- (a) Conduct an investigation of the suspected intentional program violators;
- (b) Prepare a report on the completed investigation showing the methods used to obtain information;
- (c) Make the report available to the Division; or

(d) Refer the customer or the provider to the local State's Attorney if the alleged facts in the case meet the guidelines established by the State's Attorney for prosecution;

(2) Allow a customer or a provider to waive the customer's or the provider's right to an administrative disqualification hearing; or

(3) Refer the customer or the provider, as applicable, to the Office of Administrative Hearings (OAH) for an administrative disqualification hearing.

C. Supervisory Review. Before providing advanced written notification that a customer or a provider may waive the customer's or provider's right to an administrative disqualification hearing, the contractor shall ensure that a supervisor:

- (1) Reviews the evidence against the customer or the provider; and
- (2) Determines whether the evidence warrants scheduling of a disqualification hearing.

D. Waiver Hearing. When the contractor decides to allow a customer or a provider to waive the customer's or the provider's right to an administrative disqualification hearing, the contractor shall notify the customer or the provider in writing. The notice shall include:

(1) A summary of the charge against the customer or the provider and the evidence to support it;

(2) Information regarding the administrative disqualification hearing including:

(a) A statement that the customer or the provider may waive the right to an administrative disqualification hearing;

(b) The date the contractor will refer the case to the OAH for a hearing if the contractor has not received the signed waiver, which is not later than 20 calendar days after the mailing of the notice;

(c) The requirement that the customer or the provider shall sign the waiver;

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(d) A statement that the customer or the provider has the right to remain silent and that anything the individual says or signs concerning the charge may be used in future administrative or judicial proceedings; and

(e) A statement that signing the waiver will result in disqualification and reduce or terminate services for the customer or the provider;

(3) An opportunity for the customer or the provider to admit to the facts presented by the CCS Branch;

(4) A statement that the disqualified customer or provider is responsible for repayment of any overpayment received;

(5) A statement that a hearing does not preclude the State or federal government from prosecuting the customer or the provider for the intentional program violation in a civil or criminal court; and

(6) The name and telephone number of the person to contact for additional information.

E. If the local State's Attorney decides that a case does not warrant prosecution, the contractor shall refer the case to the OAH for an administrative disqualification hearing.

F. If the local State's Attorney does not act on a referred case within 30 calendar days, the referral shall be withdrawn and the case shall be referred to the OAH for an administrative disqualification hearing.

G. The contractor may not initiate an administrative disqualification hearing:

(1) Against a customer or a provider whose case is being referred by the State's Attorney for prosecution; or

(2) After the State's Attorney or a court of appropriate jurisdiction has taken any action against the customer or the provider in a case arising out of the same or related circumstance.

H. Imposition of Disqualification Penalties. If the contractor receives a signed waiver of the right to an administrative disqualification hearing, the contractor shall apply the disqualification penalty at the beginning of the next service period.

I. If the contractor does not receive a signed waiver of the right to an administrative disqualification hearing within 20 calendar days of providing advance notification in accordance with §D of this regulation, the contractor shall refer the individual to the OAH for a hearing in accordance with COMAR 13A.14.06.15.

J. The referral shall include:

(1) Identifying case information;

(2) A summary of the alleged intentional program violation;

(3) Copies of the contractor's supporting documentation; and

(4) Documentation that the customer or the provider has been:

(a) Previously disqualified for an intentional program violation; or

(b) Convicted by a court of fraud involving the CCS Program.

K. A pending disqualification hearing does not affect the customer's or the provider's right to be certified and participate in the program.

L. The contractor shall terminate or reduce the services if:

(1) The customer or the provider returns the signed waiver to the contractor;

(2) The customer or the provider fails to request a hearing and continuation of benefits after notice of termination or reduction;

(3) The decision of the contractor is upheld upon disposition of an intentional program violation hearing; and

(4) The State's Attorney Office's final disposition of a referred proceeding is received.

M. A customer or a provider who has waived the right to an administrative disqualification hearing or was found to have committed an intentional CCS Program violation is ineligible to participate in the CCS Program as follows:

(1) For the first violation, the customer or the provider may not receive any CCS Program payments for 6 months from the date payment was denied or until the customer or provider makes full restitution to the CCS Program, whichever is earlier;



(2) For the second violation, the customer or the provider may not receive any CCS Program payments for 12 months from the date the payment was denied or until the customer or the provider makes full restitution to the CCS Program, whichever is earlier;

(3) For the third violation, the customer or the provider shall be permanently barred from receiving CCS Program payments and shall pay restitution to the CCS Program; and

(4) For a determination of an intentional program violation based on a customer's or a provider's conviction in a federal or state court on charges that the person misrepresented the location of his or her residence in order to obtain services from two or more states, the customer or the provider is not eligible to receive CCS Program services or payments for 10 years from the finding.

N. The disqualification period begins with the service period after which the customer or the provider is sent written notification of the disqualification:

- (1) Upon disposition of an intentional program violation hearing if the decision of the contractor is upheld;
- (2) When a waiver is signed; or
- (3) Upon final disposition of any proceeding referred to the local State's Attorney Office.

O. Once a disqualification penalty has been imposed under §M(1) or (2) of this regulation, the period of disqualification continues uninterrupted until the earlier of:

- (1) Full repayment of the benefit; or
- (2) Completion of the time period.

P. Before imposing the sanction, the CCS Branch shall provide written notice to the customer or the provider of the:

- (1) Effective disqualification date;
- (2) Reason for imposing the sanction;
- (3) Payment that the applicant, customer, or provider was receiving; and

(4) Date on which the customer may reapply or the provider may begin offering service because the disqualification period has expired.

Q. If a customer or the provider has been disqualified pursuant to this regulation, the contractor shall send the customer or the provider a demand letter for restitution, which shall include:

- (1) The amount owed;
- (2) The reason for the claim;
- (3) The period of time covered by the claim;
- (4) The procedure for paying the claim;
- (5) The right to request renegotiation of any repayment schedule if the customer's or the provider's economic circumstances change; and
- (6) The requirement to:
  - (a) Sign the repayment notice to indicate agreement to make restitution;
  - (b) Select the method of payment; and
  - (c) Return the repayment notice within 30 calendar days of the date of the notice.

R. The customer or the provider may request a hearing before the OAH if the individual disagrees with the amount of the overpayment or the method of repayment.

### **.15 Hearings and Appeals.**

A. Appeal by Customer. A customer may request a hearing if the contractor:

- (1) Denies, suspends, reduces, or terminates assistance;

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- (2) Fails to act with reasonable promptness on an application for, or a request for adjustment of assistance; or
- (3) Imposes sanctions on a recipient; or
- (4) Recovers an overpayment in assistance.

B. Notice.

- (1) The contractor shall send written notice of any adverse action in writing:
  - (a) To the customer; and
  - (b) To a provider who is denied payment for committing an intentional program violation pursuant to Regulation .14M of this chapter.
- (2) Notice of any adverse action shall include the:
  - (a) Decision;
  - (b) Basis for the decision;
  - (c) Specific regulation supporting the decision;
  - (d) Right to request an appeal;
  - (e) Method by which an appeal may be requested;
  - (f) Right to be represented in an appeal by a lawyer, relative, friend, or other individual; and
  - (g) Availability of any free legal services.
- (3) The customer or provider may appeal within 90 calendar days of the date of the notice of adverse action.
- (4) An appeal request:
  - (a) Is made by filing a completed MSDE appeal request form with the contractor;
  - (b) May be received by any employee of the contractor whose assignment requires contact with the public; and
  - (c) Shall be submitted immediately by the contractor to the designated hearing coordinator.
- (5) The filing date of the appeal request is the date the contractor received the completed MSDE appeal request form.
- (6) Contractor Assistance in the Appeal Request. The contractor shall assist the appellant in completing an appropriate appeal request form to ensure that it contains all the information required to process the request and, if necessary, shall provide an interpreter.

C. Processing of Appeal Requests.

- (1) Within 5 business days of the filing date of an appeal request, the contractor shall:
  - (a) Forward the following information to OAH:
    - (i) Date of the request;
    - (ii) Name and address of the appellant;
    - (iii) Name and address of the local department representative;
    - (iv) Action being appealed;
    - (v) Date of the action being appealed; and
    - (vi) Date notice of the action was mailed to the appellant; and
  - (b) Acknowledge to the appellant receipt of the appeal request.
- (2) Conference.
  - (a) When the contractor receives an appeal request, the contractor shall promptly offer the appellant a conference.
  - (b) A contractor supervisor shall attend the conference.
  - (c) The case manager responsible for the action may also attend.
  - (d) Although a conference may lead to an informal resolution of the dispute, a hearing shall be held unless the appellant withdraws the appeal request in writing.

**D. Continuation of Assistance Pending Appeal.**

(1) Assistance shall be automatically continued or reinstated if the filing date of the appeal request is within 10 calendar days of the intended action.

(2) Assistance may not be continued or reinstated pending appeal if:

- (a) An appellant specifically requests that assistance not be continued or reinstated pending appeal;
- (b) The eligibility or certification period for the assistance has expired;
- (c) Assistance has been reduced or terminated due to a change in federal or State law or regulation and the appeal does not appear to concern misapplication of the change;
- (d) Continuation or reinstatement of the service at issue would threaten the health or safety of other individuals; or
- (e) The service is terminated because of nonpayment by the family of the copayment stated on the voucher that was assigned by the contractor.

(3) An appeal request form shall contain:

- (a) An opportunity for the appellant to request that assistance not be continued or reinstated pending appeal; and
- (b) A statement that the appellant is responsible for repaying any assistance paid during the appeal process if the contractor's position is upheld.

**E. Denial or Dismissal of Request for Appeal.** OAH may deny or dismiss an appeal if:

- (1) The appeal request is not complete;
- (2) The appellant withdraws the request in writing;
- (3) The appellant fails to appear at the scheduled hearing;
- (4) Assistance has been reduced or terminated due to a change in federal or State law or regulation and the appeal does not concern misapplication of the change; or
- (5) The appellant has failed to pay any filing fees required by OAH.

**F. Scheduling and Notice.**

(1) Except as provided in §§B and D of this regulation, upon receiving an appeal request, OAH shall:

- (a) Promptly schedule a hearing; and
- (b) Send the parties a hearing notice at least 15 calendar days before the scheduled hearing.

(2) Intentional Program Violation Hearing. When the contractor makes a referral to OAH concerning an intentional program violation, OAH shall:

- (a) Promptly schedule a hearing; and
- (b) Send the parties a hearing notice at least 30 calendar days before the scheduled hearing.

(3) Hearing Notice. The hearing notice shall:

- (a) Summarize the hearing procedures;
- (b) Advise the appellant of:
  - (i) The date, time, and place of the hearing;
  - (ii) The right to be represented at the hearing by a lawyer, relative, friend, or other individual;
  - (iii) The availability of any free legal services;
  - (iv) The right to present documents and witnesses, including contractor employees, at the hearing;
  - (v) The right to examine the case record in preparation for the hearing;
  - (vi) The procedure to follow if the appellant cannot attend the hearing; and

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(vii) Except in an appeal concerning an intentional program violation, the authority of an administrative law judge to dismiss the appeal if the appellant fails, without good cause, to attend the hearing; and

(c) In an appeal concerning an intentional program violation, include:

(i) The charge;

(ii) A warning that the decision shall be based solely on information provided at the hearing if the appellant fails to appear at the hearing;

(iii) A statement that, to have a hearing rescheduled, the appellant has 10 calendar days from the date of the hearing to present to the administrative law judge good cause for not appearing and for not asking for a postponement before the hearing;

(iv) A description of the disqualification penalties and a statement of the applicable penalty;

(v) A statement of the appellant's rights during the hearing; and

(vi) A warning that the hearing does not preclude the State or federal government from prosecuting the appellant or pursuing collection of the overpayment.

G. Prehearing Procedures.

(1) Rescheduling.

(a) A party may request a change in a hearing time, date, or location by:

(i) Submitting a written request, with copies served on all parties, to the OAH clerk's office at least 5 business days before a scheduled hearing; or

(ii) In the case of an unforeseen event requiring postponement and occurring less than 5 business days before a scheduled hearing, calling the OAH clerk's office as soon as possible.

(b) If OAH finds that good cause exists, OAH shall set another time or place for the hearing and notify the parties of the change.

(c) In an appeal concerning an intentional program violation, the appellant is entitled to one postponement of the scheduled hearing of up to 30 calendar days without the need to demonstrate good cause.

(d) Any time limits applicable to the issuance of a final administrative decision are extended by the length of the delay caused by a postponement:

(i) Requested by the appellant; or

(ii) Granted by the administrative law judge due to the appellant's introduction of new evidence.

(2) Summaries. The contractor shall:

(a) Prepare a summary of the facts pertinent to the case and of the basis for its action; and

(b) Send the summary and copies of all documents that it intends to present at the hearing to the appellant and to OAH at least 6 calendar days before the date of the hearing.

H. Administrative Law Judge's Decision.

(1) The administrative law judge shall render a final decision.

(2) The decision shall contain:

(a) Separate statements of findings of fact and conclusions of law;

(b) Citation to pertinent State and federal law; and

(c) An order.

I. Final Decision.

(1) Within 90 calendar days of the filing of the appeal request:

(a) The administrative law judge shall issue a final decision to all parties; and

(b) The contractor shall complete all administrative or corrective action necessary to implement the decision.

- (2) If the decision is favorable to the contractor, the contractor may:
  - (a) Take immediate steps to implement the decision; and
  - (b) Reduce or terminate assistance that has been continued while the appeal was pending by:
    - (i) Decreasing the subsidy amount or closing the customer's case; and
    - (ii) Notifying the child care provider of the reduction or termination pursuant to Regulation .10A.
- (3) If the decision is favorable to the appellant, the contractor shall, within 10 calendar days of the date of the decision:
  - (a) Comply with the decision;
  - (b) Take corrective action retroactive to the date the incorrect action was taken;
  - (c) Restore the services; and
  - (d) Notify OAH that it has completed all required action.
- (4) The Record. After issuing a final administrative decision, OAH shall promptly forward to the CCS Branch the complete record, including all:
  - (a) Papers filed;
  - (b) Evidence submitted; and
  - (c) Orders and decisions issued.